



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,164	10/08/2003	Andrew W. Wilson	ADAPP166A	8223
25920	7590	03/16/2006		
MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER NGUYEN, TANH Q	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/682,164	Applicant(s) WILSON ET AL.	
	Examiner Tanh Q. Nguyen	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: <u>10/08/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. The current status of the parent application and the related applications needs to be updated.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 1, 12, 18 recite a network stack layer interface having a header portion and a buffer descriptor. It is not clear if the packet structure passing through a stack layer interface or the stack layer interface itself contains the header portion and the buffer descriptor. Correction/clarification is required.
5. The following rejections are made based on the examiner's best interpretation of the claims in light of the 35 USC 112 rejection that the packet structure contains the header portion and the buffer descriptor - instead of the stack layer interface.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (APA, FIG. 1) in view of Connery et al. (US 6,426,683).
8. Claim 1, APA discloses transferring messages through the network stack layers (Fig. 1), the message having a header portion and data. APA does not disclose reducing the number of times data is copied from one stack layer to the next. Connery discloses an improvement to the layer interface communication during network storage data transfer wherein data (payload) is copied into a buffer to reduce the number of times data is copied by the host system (col. 2, ll. 9-55), where the normal data portion is replaced with a buffer descriptor that includes a memory address pointer (col. 5, ll. 1-7) to provide data when requested by the physical layer 48. It would have been obvious for one having ordinary skill in the art to utilize the teaching of Connery in combination with APA in order to avoid copies of data packets as they pass up the protocol stacks, increase raw performance and improve the scalability of the process (col. 2, ll. 1-6).
9. Claim 2, the header portion having a common header portion and a layer specific header portion relating to a particular stack layer, this is standard in ISO communication protocol.
10. Claims 3-4, Connery (col. 6, ll. 60-61) discloses the stack layer having plurality of buffer descriptors including length, size and address pointers.
11. Claims 5-11, Connery discloses a buffer descriptor that defines the storage layer

14. Claims 1-3, 12, 18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,651,117. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 13 of U.S. Patent No. 6,651,117 contains every element of claims 1-3, 12 and 18 of the instant application, and as such anticipates claims 1-3, 12 and 18 of the instant application.

“A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). “ ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

15. Claims 4-11, 13-17, 19-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,651,117 in view of Connery et al..

16. Claims 4, 13, 19, Connery teaches a plurality of buffer descriptors [col. 6, ll. 60-61] for packets that require more than one buffer descriptor (i.e. for long packets). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of buffer descriptors, as is taught by Connery, in order to transfer

long packets.

17. Claims 5-11, 14-17, 20, Connery discloses a buffer descriptor that defines storage layer header data to allow a packet to be processed normally through the network protocol stack [col. 7, ll. 1-10]. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the buffer descriptor to define storage layer header data, as is taught by Connery, in order to allow the packets to be processed normally through the network protocol stack. As for the data being various types of header data (SCSI, SEP, STP), it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the adapter of Connery in various network environments as a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular environment was significant as long as it provides the benefit of avoiding copies of data packets as they pass up the protocol stack, increase raw performance and improve the scalability of the process as intended.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh Quang Nguyen whose telephone number is (571) 272-4154 and whose e-mail address is tanh.nguyen36@uspto.gov. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh, can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for

Art Unit: 2182

After Final, Official, and Customer Services, or (571) 273-4154 for Draft to the Examiner (please label "PROPOSED" or "DRAFT").

Effective May 1, 2003 are new mailing address is:

Mail Stop _____

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Effective December 1, 2003, hand-carried patent application related incoming correspondences would be to a centralized location.

U.S. Patent and Trademark Office

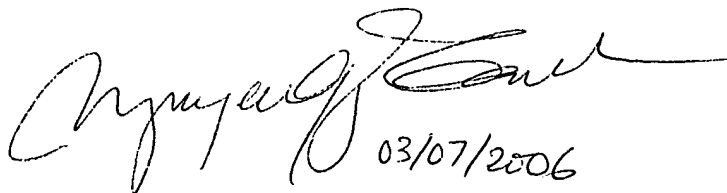
2011 South Clark Place

Customer Window

Crystal Plaza Two, Lobby, Room 1B03

Arlington, VA 22202

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



03/07/2006

TQN

March 7, 2006